



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

JUL 22 1996

James M. Salvaggio, Director
Department of Environmental Protection
Bureau of Air Quality Control
Commonwealth of Pennsylvania
Rachel Carson State Office Building
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8468

Dear Mr. Salvaggio:

These comments are being submitted for the Commonwealth's July 22, 1996 public hearing for the 15% Rate-of-Progress Plan (RPP, or 15% plan) for the Philadelphia severe ozone nonattainment area. Please enter these preliminary comments as part of the public record. EPA will provide more detailed comments regarding deficiencies, shortly.

Many of these deficiencies were identified in EPA's notice of proposed rulemaking (NPR) entitled "Disapproval of 15 Percent Reasonable-Further-Progress Plan for the Philadelphia Area", published in the July 10, 1996 Federal Register. Although this rulemaking action pertains to the Commonwealth's January 1995 15% plan, EPA is concerned that many of these deficiencies were carried over to the latest version of the plan.

General and Inventory-Related Concerns

In particular, EPA is concerned about discrepancies between Pennsylvania's officially submitted 1990 base year emissions inventory, and the inventory estimates contained in both the January 1995 and the latest draft of the 15% plan. Several significant differences exist within emissions classes (e.g., stationary, area, etc.), between each 15% plan and the official inventory. Pennsylvania has not attempted to justify the specific differences in the inventory estimates contained in the Commonwealth's 15% plan. As you are aware, EPA has not yet taken rulemaking action upon Pennsylvania's 1990 Base Year Inventory SIP. While the Commonwealth may amend the 1990 base year inventory in the 15% plan, the state must request a formal change to the 1990 inventory, address the specific differences between the inventory of the 15% plan and the official 1990 inventory, and document these changes in an appropriate manner (i.e., per EPA's emission inventory preparation guidance). This is particularly important for 15% plans, since 1990 emissions levels are used to determine needed RPP reductions, and to determine growth. The lack of documentation of 1990 emissions also hinders EPA's ability to verify future emissions and emissions reductions associated with control strategies.

Additionally, several of the summary tables contained in the 15% plan for various emissions inventory categories provide sub-totals that do not sum to the totals claimed for those inventory category totals contained in the plan. For the 1996 baseline, or uncontrolled, emissions levels claimed

in the 15% plan for various categories, EPA could not duplicate the Commonwealth's estimates. This is particularly problematic with several area source categories, and is complicated by the lack of tables showing 1996 uncontrolled emissions levels for specific emissions sub-categories. For instance, for several control strategies, the 1990 emissions multiplied by the Commonwealth's 1990-1996 growth factor, minus emissions reductions from the strategy yields a different 1996 level of controlled emissions than is claimed by the Commonwealth.

EPA also has concerns about 1990-1996 growth assumed in the 15% plan. In particular, it is unclear how the Commonwealth determined growth for the on-highway emissions class. The plan indicates that growth of these emissions is a reflection of only VMT, yet the 15% plan indicates upward growth of VMT by over 10%. Since fleet turnover reductions associated with Tier 0 and Tier I FMVCP programs are reflected separately in the 15% plan, it is unclear why growth in highway emissions is projected to dramatically decline. At the very least, the 15% plan should clarify the cause of this negative growth. Further documentation, including category summary tables and sample calculations, of growth and grown 1996 uncontrolled, or baseline, emissions levels would also serve to clarify this portion of the plan.

RPP Control Strategies

EPA has specific concerns with several of the control measures utilized to attain RPP. Many of these concerns lie in documentation of the reductions from these measures, and not the creditability of the measures themselves. A brief discussion of some of these measures is included below.

VOC Source Shutdowns

In the latest draft 15% plan, the number of shutdown sources has dropped from 24 to 11, compared to the January 1995 plan. Also, the amount of credit taken for individual facilities has changed (based on whether the source banked or did not bank these credits. Further explanation of the claimed reductions is needed.

Reformulated Gasoline

The Commonwealth indicates a 2.83 tpsd increase in reductions attributed to phase I of this program in the latest 15% plan draft, from the 1995 15% plan. The Commonwealth claims this reductions is associated solely with the MOBILE modeling changes associated with the switch from the defunct centralized I/M program to the new test & repair program. This logic seems counter-intuitive to EPA, since both programs target highway evaporative emissions. Further discussion of this issue is needed.

AIM Coatings Federal Rule

EPA was unable to duplicate the estimates for reductions from this program claimed in the 15% plan.

Enhanced I/M Program

It appears that Pennsylvania assumed the maximum benefit allowable by EPA policy from the technician training portion of this program in the 15% plan. To claim this level of credit, licensing or certification of 100% of participation I/M repair facilities is necessary. Pennsylvania does not currently have regulatory authority to enact such a program. EPA is still reviewing the emissions reductions from I/M in the 15% plan, and may require further documentation to complete its review.

Contingency Measures

Several of the contingency measures included in the 15% plan SIP revision are not creditable towards the Clean Air Act contingency measure requirements. EPA has interpreted the Act to require States with moderate and above ozone nonattainment areas to include sufficient contingency measures in its 15% plan submittal, such that upon implementation of such measures additional emissions reductions of up to 3% of the emissions in the adjusted base year inventory (or a lesser percentage that will cure the identified failure) would be achieved in the year after the failure has been identified. Per section 182(c)(9) of the CAA, states' contingency measures must "take effect without further action by the state or the Administrator." EPA interprets this requirement to mean that no further rulemaking activities -- including public hearings or legislative review -- would be needed on the part of the state to implement the contingency measures. Per the *General Preamble to Title I*, EPA expects that all actions needed to effect full implementation of the contingency measures will occur within 60 days of a state's notification of a failure. The *General Preamble* does allow states to require early implementation of measures scheduled for implementation at a later date in the SIP.

Consumer/Commercial Products

In a November 3, 1993 policy memorandum from Kent Berry, EPA reiterated its position that since specific contingency measures must be undertaken if the area fails to meet a milestone, measures that are already required to occur (i.e., prior to 1997) in an ozone nonattainment area are not creditable for the 3% contingency measure requirement (unless the measure is in place to reduce another pollutant, and also provides VOC or NOx reductions). Therefore, EPA's consumer and commercial products national rule, although creditable towards the RPP requirement as an implemented federal measure, is not creditable as a contingency measure -- unless the Commonwealth adopts a rule to provide for additional, creditable reductions.

VOC/NOx RACT

For the same reason as specified for the consumer/commercial products national rule, use of VOC/NOx RACT (per section 182 of the Clean Air Act) is not creditable as a contingency measure, although it is creditable as a RPP measure, unless additional reductions beyond RACT are demonstrated by the state.

Highway Marking Paint Reformulation


EPA is concerned about the creditability of this measure. In the event that contingency measures are triggered, a binding consent decree with PennDOT would be necessary to satisfy EPA's "permanence and enforceability" requirements.

NOx Source Shutdowns

Reductions from a NOx control strategy that occurred prior to 1996 cannot be used to satisfy the contingency measure requirements of the Act. Although VOC shutdowns could be credited towards a 15% plan, the General Preamble states that contingency measures provided in the November 1993 submittal must provide that "upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the base year inventory, would be achieved in the year following the year in which the failure has been identified." Section 182(b)(1)(A) of the Act requires states to submit a "plan to provide for volatile organic compound emissions reductions within 6 years after November 15, 1990". EPA's interpretation of this language is that NOx reductions cannot be claimed to satisfy RPP requirements prior to 1996. EPA has issued a August 13, 1993 policy memo allowing early implementation of contingency measures, without penalty, however this memo does not address the use of NOx reductions prior to 1996.

Although many of EPA's technical and legal concerns are explained in this letter, these comments are preliminary in nature, due to the short timeframe associated with the public comment period. EPA will submit additional, more specific comments in the near future. In addition, my staff would like to meet with the appropriate DEP staff to discuss several of the technical issues discussed in this letter, so that DEP can incorporate any changes necessary into the final 15% plan for Philadelphia. Thank you for the opportunity to comment.

Sincerely,


Thomas J. Maslany, Director
Air, Radiation, and Toxics Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

MAY 2 1996

Honorable James M. Seif
Secretary
Department of Environmental Protection
Commonwealth of Pennsylvania
Fulton Building, 9th Floor
3rd & Locust Streets
P.O. Box 2063
Harrisburg, Pennsylvania 17120-2063

Dear Mr. Seif:

The purpose of this letter is to emphasize the importance of the Phase I requirements for the ozone state implementation plan (SIP) submittals. The Phase I submittal is an integral part of the flexible approach to ozone nonattainment plans described in a memorandum from United States Environmental Protection Agency (EPA) Assistant Administrator Mary D. Nichols to Regional Administrators, "Ozone Attainment Demonstrations," dated March 2, 1995. The Commonwealth of Pennsylvania has elected the phased approach provided under this policy for the Pennsylvania portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area. The Phase I submittal for the Pennsylvania portion of the Philadelphia ozone nonattainment area was due at the end of 1995, or during 1996 if administrative scheduling has rendered it impossible for the Department of Environmental Protection to complete the Phase I requirements earlier. The specific requirements of Phase I, including particular control measures and modeling, were described in the March 2, 1995 memorandum.

The March 2, 1995 memorandum established general policy to address the common problems affecting many nonattainment areas. Since that time, EPA policy has evolved. The enclosure to this letter provides a summary and status of the Phase I requirements currently applicable to the Pennsylvania portion of the Philadelphia ozone nonattainment area.

Although the March 2, 1995 memorandum required completion of all ozone nonattainment SIPs required prior to November 1994, EPA recognizes that the recently enacted National Highway Systems Designation Act (NHSDA) of 1995 authorizes amended enhanced vehicle inspection and maintenance (I/M) SIPs. The effect of the NHSDA on this policy is still under evaluation for those states amending their I/M program under the NHSDA.

Celebrating 25 Years of Environmental Progress



Because Pennsylvania has elected the phased approach of the March 2, 1995 policy, Pennsylvania should hold a hearing and submit a Phase I SIP revision as soon as possible to avoid adverse consequences. These consequences may include a finding of either failure to submit or incompleteness, or a proposed disapproval of the Phase I submittal. The SIP should include the adopted Phase I control measures, modeling performed to date, and a rule adoption schedule for 1996 for any rule that may be delayed into 1996, and the required enforceable commitments, all of which are outlined in the enclosure.

I am requesting to meet with you in the very near future to discuss the progress and obstacles you have faced in completing the Phase I SIP and to ultimately work out a schedule for completing these requirements. It is critical that we have a schedule for Pennsylvania no later than May 20, 1996, since these requirements are now due and EPA must consider the actions that need to be taken under the March 2, 1995 policy. It is our understanding that Mary Nichols will also be meeting with the state commissioners in early June to discuss the next steps in implementing this policy.

Within the next week, my office will be contacting you to arrange for a meeting to discuss the Phase I SIP measures. I look forward to resolving this issue with you as quickly as possible.

Sincerely,



W. Michael McCabe
Regional Administrator

Enclosure

cc: Mr. James M. Salvaggio, PA DEP

ENCLOSURE
Phased Attainment Demonstration
Summary of Policy & Progress
For the Pennsylvania Portion of the Philadelphia-Wilmington-
Trenton Severe Ozone Nonattainment Area

I. PHASE I REQUIREMENTS:

A. Adopt and submit as a SIP revision all rules required prior to November 15, 1994 (past due):

1. Stage II Vapor Recovery.

Status: Adopted and submitted

2. Nitrogen oxides (NOx)/volatile organic compound (VOC) reasonably available control technology (RACT):

Status: RACT rules submitted.

3. Enhanced inspection/maintenance (I/M) (see endnote 1).

Status: National Highway Systems Designation Act of 1995 submittal of March 27, 1996 received.

4. Reformulated Gas (where mandated).

Status: Adopted, submitted and implemented.

5. Clean Fuel fleet (CFF) program (see endnote 2).

Status: Sanction clock removed. See endnote 2. LEV SIP past due (see below).

6. Adopt and submit as a SIP revision any additional rules (i.e., other than those listed above) needed for 15% Rate-of-progress plans.

Status: Plan submitted on January 18, 1995. All state measures adopted and submitted.

B. Letter committing to the two-phase approach - a letter committing to make Phase I submissions by 1995-96, including schedule for adoption of Phase I.

Status: Letter from James M. Seif, Secretary, Department of Natural Resources, electing the phased approach submitted on May 31, 1995.

C. Adoption of remaining Phase I rules.

1. Ozone Transport Commission (OTC) Programs:

o OTC NOx memorandum of understanding (MOU): NOx Budget Rule/OTC NOx Phase II Controls (see endnote 3).

Status: MOU signed. Need to commit to a schedule to adopt and submit regulation for Phase II NOx controls. Schedule must consider the need to provide affected sources sufficient lead time to implement controls and the need to allow time for the start-up of the allowance tracking system. The Phase I SIP revision must include, at a minimum, a commitment to adopt the Phase II NOx rules by a specified date which will provide for implementation by May, 1999. Upon submittal of a commitment to adopt Phase II of the NOx MOU, EPA will conditionally approve the Phase I ozone SIP revision. When the state meets the date specified in the SIP for completion of Phase II of the NOx MOU, the conditional approval will become a full approval. A full approval (if all other conditions are met) of the Phase I SIP revision can be given if fully adopted rules for Phase II of the NOx MOU are submitted at the time of the Phase I SIP.

o OTC low emission vehicle (LEV) - submittal of adopted rules due February 15, 1996 under the OTC LEV SIP call.

Status: LEV SIP requirement past due. (See endnote 2)

2. Adopt and submit as SIP revisions all rules needed for 1996 to 1999 Rate-of-Progress (9 % reduction minimum).

Status: Hearing held on December 23, 1994. Plan submitted on November 15, 1994. Rate of progress measures needing adoption include employee trip reduction (or other measures), NOx and VOC RACT source specific SIPs credited in the Post-1996 plan, and 1999 NOx MOU controls.

D. Adoption of the three enforceable commitments identified in the March 2, 1995 policy:

An enforceable commitment is a commitment that has gone to public hearing and is submitted to EPA as a SIP revision. Where the commitment is for adoption of additional rules, the commitment must include the schedule(s) for rule adoption and submission.

1. Participate in the Ozone Transport Assessment Group, a consultative process to address regional transport, and commit to do the Phase II modeling. This process should be completed by the end of calendar year (CY) 1996.

Status: Need to take the commitment to hearing and submit as a SIP revision.

2. Adopt additional control measures as necessary to attain the national ambient air quality standards (NAAQS) for ozone, meet rate-of-progress requirements, and eliminate significant contribution to nonattainment downwind. This includes:

a. Rate-of-progress after 1999. The schedule for this SIP revision must provide for submission of fully adopted measures no later than 12/31/1999.

b. Additional Rules needed for attainment. For serious areas the schedule must reflect adoption with sufficient lead time to allow measures to be implemented prior to May 1999. For severe areas the schedule must provide for submittal of fully adopted measures as SIP revisions by 12/31/1999 with implementation dates adequate to meet rate-of-progress requirements in 2002 and 2005 and attainment in 2005.

c. Regional control strategies to eliminate significant contribution to nonattainment downwind. The schedule must provide for adoption on the timetable set by the Ozone Transport Assessment Group (OTAG) process but should not extend past 12/31/99. The Phase I SIP revision must also include a statement that the state will follow the OTC timetable for Phase III of the NOx MOU.

Status: Need to take the enforceable commitment to hearing and submit as a SIP revision.

3. Identify any reductions that are needed from upwind areas for the area to meet the NAAQS. This should be complete by the end of CY 1996.

Status: Need to take the enforceable commitment to hearing and submit as a SIP revision.

E. Phase I Modeling SIP revision. This must include modeling to date. There has been some confusion regarding this item. An approveable Phase I SIP must have modeling that has gone to hearing (see endnote 4).

Status: Need to take the modeling to date to hearing and submit as a SIP revision.

II. PHASE II REQUIREMENTS:

The Phase II modeling and attainment plan, which would identify all measures and adoption schedules for measures implemented after 1999, is due mid-1997. The attainment plan

should identify the measures that are needed for rate-of-progress and attainment. The remaining rules needed for serious areas to attain must be adopted and implemented in time for those areas to meet their attainment date of 1999.

For nonattainment areas with later attainment dates, States should adopt and implement local and regional control measures as determined to be necessary to meet the statutory attainment deadlines. States should phase-in adoption of rules to provide for implementation of measures for rate-of-progress beginning in the period immediately following 1999. These rules must be submitted to EPA no later than the end of 1999 (unless they were submitted as part of phase I), and provide for timely implementation of rate of progress requirements.

Endnotes:

1. The National Highway Systems Designation Act (NHSDA) of 1995 revised the submittal requirements for certain aspects of enhanced I/M programs for states making a submittal under the NHSDA.

2. EPA has determined that there is flexibility in allowing a LEV or a national LEV ("49 state car") (NLEV) program to satisfy the CFF requirement. Adoption and submission of an OTC LEV SIP or a final NLEV program would satisfy the CFF requirement. EPA has withdrawn a finding of failure to submit a CFF program because Pennsylvania requested OTC LEV/NLEV as a substitute program for CFF program. Pennsylvania would only be relieved of its obligations under the OTC LEV SIP call, however, if EPA finally determines that NLEV is an acceptable alternative to OTC LEV, and that the program is in effect. (EPA proposed to approve the NLEV program on October 10, 1995.) While EPA expects to make the initial determination, NLEV will only be in effect if agreement is reached between those States and the automobile manufacturers involved in the program. In the meantime, states are encouraged to move forward to meet their obligations for OTC LEV.

3. Phase II NOx controls (where RACT is Phase I) means those reductions required under the MOU that must be implemented by 1999.

4. The Phase I portion of the attainment demonstration SIPs should include either modeling with interim assumptions about ozone transport (this modeling might not show attainment) or modeling that shows attainment based on an assumed boundary condition (to be determined in consultation with EPA).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

Ms. Betty L. Serian
Deputy Secretary for Safety Administration
Pennsylvania Department of Transportation
Room 1200
Transportation & Safety Building
Harrisburg, Pennsylvania 17120

MAR 28 1996

Dear Ms. Serian:

Please find enclosed comments from the Environmental Protection Agency (EPA) regarding Pennsylvania's proposed inspection and maintenance (I/M) program. These comments stem from our review of the January 25, 1996 version of a draft Commonwealth I/M SIP and accompanying regulation.

A complete list of EPA's comments from our review of the draft SIP package, ordered according to EPA's I/M Requirements Rules, is enclosed with this letter. A detailed description of a few of those concerns is found below. These concerns, in particular, must be addressed before EPA can fully approve Pennsylvania's program under the EPA I/M Rule Requirements Regulation:

The Clean Air Act requires that compliance with the I/M program (by motorists) be enforced through a system of registration denial, unless the state has an existing alternative that has been demonstrated to EPA to be more effective. Pennsylvania has not made such a demonstration to justify the current sticker enforcement program. Instead the SIP contains a statement that "sticker enforcement is more effective than registration denial". EPA has set forth a clear process for such a demonstration in its I/M Program Requirements Rule. Furthermore, Pennsylvania statute limits the maximum penalty for motorists operating vehicles without a valid sticker to a \$25 fine per violation, versus a potential cost to a complying motorist of the emission test fee + the cost of associated repairs, up to the waiver limit.

The draft SIP does not include a program implementation schedule, indicating dates by which: testing will begin for each program, RFPs will be issued to contract out key program functions, contractors are to be hired, stations must be licensed/must obtain equipment, etc.

Also, the SIP does not include provisions to protect the public from potential fraud and abuse by inspectors, mechanics, or others involved in the I/M program. Neither does it provide consumers an avenue for obtaining referrals of qualified repair technicians, or for a station's repair effectiveness performance.

Pennsylvania's draft regulation requires that the final waiver limits be fully phased-in by start



of the third testing cycle. If Pennsylvania's program is implemented in mid-1997, the full waiver limit would not begin until at least mid-1999. For areas where testing is to begin in 1999, final waivers would not be in place until at least 2001. Additionally, under the draft SIP, waivers may be issued by any participating test inspector, thus removing any quality control on issuance of waivers.

The draft regulation requires a data link between station test analyzers and a PennDOT contractor's computer, and the draft PA SIP states that stations must periodically send data transmissions. Pennsylvania has not satisfied the EPA requirement that test data be transmitted via a real-time data link. A real-time, bi-directional link serves to reduce the possibility of consumers "shopping around" for initial passing test at different stations or improper entry of that data element by a test station, which can in turn, improve the accuracy of the compliance rate determined for the program.

Finally, while the penalties against stations and inspectors in the Commonwealth's regulatory penalty schedule are adequate, the draft regulation establishes a "point system", which can be used to settle violations in lieu of suspension. Under this system, points would fade over time and suspensions/fines would not be imposed until a minimum limit is reached. This point system allows even serious offenses to occur one or more times, without imposition any fine or even a single day of suspension.

Each of these program aspects differs from Federal I/M requirements, and is not supported by the flexibility granted for I/M programs under the National Highway Systems Act of 1995. I would welcome the opportunity to meet with you or your staff to discuss means of addressing these inconsistencies. I am aware that some of these issues may be topics of discussion for the stakeholders' process established by Governor Ridge. I would like to take this opportunity to thank you for working diligently to meet the stringent deadlines under the National Highway Systems Act, and for providing EPA with the opportunity to provide comments on a preliminary draft version of the SIP.

Sincerely,



Thomas J. Maslany, Director
Air, Radiation & Toxics Division

Enclosure

COMMENTS ON THE PENNSYLVANIA I/M SIP, ORDERED ACCORDING TO EPA I/M REGULATIONS

§51.350, Applicability

- PA SIP should contain a list of zip codes for all areas subject to I/M
- The I/M regulation should convey that the entire county is subject to the program [perhaps under the definition for "subject area"]. The SIP narrative should also address the eight counties exempted from the Pennsylvania I/M program which are part of a subject MSA, but which because of their population density of under 200 persons per square mile (and since they comprise less than 50% of the MSA), are exempted from the program.
- The SIP narrative should discuss that the I/M program does not have a sunset date. The SIP could cite the legal authority to adopt an I/M program that does not sunset at some future date.

§51.351, Enhanced I/M Performance Standard

- The SIP narrative should include a list of those measures which Pennsylvania is adopting to alleviate the shortfall between centralized and decentralized program credits. Per the National Highway Systems Act, these measures need not be quantified at this time. However, this listing serves to group those measures which distinguish the enhanced program from Pennsylvania's current 11-county program, even if those measures are included separately elsewhere in the SIP.
- The "Enhanced I/M Performance Standard" section of the SIP narrative (p. 13) states that modeling characteristics for the program include functional pressure and purge testing of 1981 and newer model year vehicles (presumably for the entire state). However, this testing is not possible in the low-enhanced areas of the Commonwealth that will utilize BAR 90 test analyzers. Additionally, functional evaporative testing was not modelled for those areas. The network type and/or performance standard sections of the SIP should describe the test type (i.e. ASM w/ pressure & purge and a visual component inspection), for different weight classes and model years of vehicles, for each of the different program areas (i.e. the "high-enhanced" versus the "low-enhanced" programs.)
- The MOBILE modeling runs for the high-enhanced testing areas assume testing begins in January 1995, not the 1997 start date cited in the SIP narrative's description of the enhanced performance standard. Modeling should assume a later start date.

Additionally, for the Pittsburgh counties (centralized runs), ATP is assumed to begin in 1995, and for the Allentown counties ATP is modeled starting in 1998.

- The performance standard for the enhanced counties was modeled using idle testing instead of 2-speed idle testing (see the first I/M line in the MOBILE performance standard in the SIP appendix). This mistake was not repeated in the runs for the proposed program.

§51.352, Basic I/M Performance Standard

- Not Applicable

§51.353, Network Type & Program Evaluation

- EPA's I/M Rule, codified at 40 CFR Part 51.353(c)(3) requires that the program evaluation be performed using transient, *mass-based* testing. Section D of the SIP narrative states that the program evaluation will consist of oversight of official inspection station inspectors' performance of calibration of test equipment and of the testing, itself (using test equipment required for that particular subject area). EPA's proposed OTC Flexibility Rulemaking allows areas utilizing that approach to eliminate the program evaluation criteria. It is unclear in the SIP whether evaluation testing is to be performed in all subject areas. But, under this SIP, evaluation data could presumably consist of BAR90 test results and ASM test results (in addition to pressure/purge and/or ATP test results).
- Section D(A) of the SIP (p.16) states that EPA's policy under the National Highway Systems Act precludes a network type description. While the SIP need not include an "equivalency demonstration", per the I/M Rule, the SIP should include a description of the network design. At the very least, the network description serves to inform the public about the various testing requirements, including, for example, where and how often testing will be needed.
- The SIP narrative does not address Pennsylvania's legislative authority to conduct a program evaluation, as required under 40 CFR Part 51.353. However, since the evaluation described in the SIP merely includes observation of actual tests, in inspection station bays, it would appear that no additional legal authority is needed to perform the tests. The SIP should describe the Commonwealth's legal authority to contract with a private vendor to perform the evaluation process, and should include a schedule for this process. The SIP does not commit to conduct a program evaluation, as required under the National Highway Systems Designation Act, or to submit the results of that evaluation to EPA at the end of the interim approval period set forth in that legislation.
- The SIP narrative should include a description of the schedule for the evaluation schedule and protocol. Although this task need not be completed prior to interim approval under the National Highway Safety Act, it must be completed in the final version of the Commonwealth's SIP before full approval can be granted. Also, the resources and personnel (or contractor resources) to be allocated to program evaluation must be specified in the final SIP.
- The SIP narrative does not have a specific section listing those measures which allow the proposed decentralized program network design to meet the performance standard (based on test-only testing).

Per EPA's December 12, 1995 policy memo and the National Highway Safety Act, these measures must be listed separately in the SIP, even if they are included in the SIP separately.

- Section D of the PA SIP only requires that an analysis of the evaluation data be submitted to EPA, and not the actual data. EPA's I/M rule requires that this data be submitted, as well as an analysis of that data. Also, EPA's I/M Rule requires that this data be used to determine local fleet emission factors and to assess actual program effectiveness. The Commonwealth's SIP does not address these uses of evaluation data.

§51.354, Adequate Tools and Resources

- Pennsylvania does not have dedicated funding for oversight of the I/M program, but instead relies upon PennDOT general funds (as appropriated annually by the state legislature.) Although the SIP states that PennDOT is seeking legislative amendments to allow for an application fee to potential test facilities and a sticker purchase fee to motorists (and a dedicated fund for those fees), the SIP does not address whether these sources would provide adequate funding. The SIP states that administrative oversight of the program is to be conducted by current PennDOT staff, but does not include estimates of staff and resources needed to perform those functions.
- The SIP narrative does not provide that PennDOT currently has or will have a dedicated funding source, or authority to allow the Commonwealth to contract with private vendors to conduct various functions under the I/M program (i.e. the remote sensing, program management, quality assurance, and data collection portions of the program).
- Under the proposed program, the Commonwealth would not receive any portion of the testing fee. Section 51.354 of the CFR Part 40 clearly requires that states provide that a the program will maintain a funding source to ensure adequate program oversight, management and capital expenditures. The SIP, in its present form, lacks a detailed budget plan for both personnel and equipment resources and a mechanism to ensure future funding of the program.

§51.355, Test Frequency and Convenience

- Section F of the PA SIP states only that subject vehicles must pass an annual emissions test before a safety inspection can be performed. The SIP does not clearly address public testing notification schedules. §177.51(3) of Pennsylvania's proposed regulation requires annual testing, but does not specify the mechanism or when motorists will be notified of the emissions testing requirement. Nor is there a description in the SIP of the internal process for issuing motorist notification of testing requirements.
- 40 CFR Part 51.355 requires that sufficient safeguards be built into the enforcement system to ensure that vehicles will be tested according to the state's schedule. Pennsylvania's SIP does not call for the use of computer matching or any registration-linked mechanism to ensure that motorists comply with testing

requirements in a timely manner. 75 Pa. C.S. §4703(h) limits the fine for operating a subject vehicle without an inspection sticker to \$25, and Pennsylvania's regulations do not include late fees for motorists failing to receive a test by any specific deadline.

§51.356, Vehicle Coverage

- The PA SIP text does not contain an estimate of the number (as of time of submittal) of subject vehicles, or a breakdown of those subject to the "high enhanced" Philadelphia program vs the "low enhanced" program, for the remainder of the state. Appendix A-2 of the SIP text provides 1994 estimates of the number of subject vehicles in the 25 subject counties. This table lists passenger cars and LDGT1 and LDGT2 vehicles. The "Definitions" section of PA's regulation lists light-duty trucks as trucks weighing less than 6,000 lbs, but contains no definition for a heavy-duty truck. However, the regulation also subjects trucks up to 9,000 lbs GVWR to testing. This makes it difficult to interpret subject weight classes. If Pennsylvania does not have a registration-defined weight class cutoff for trucks less than 6,000 lbs GVWR, the mechanism for including subject heavy-duty trucks is unclear.
- The SIP does not provide an estimate of unregistered vehicles that are required to be registered in a program area (in addition to the total number of registered vehicles in subject areas).

§51.357, Test Procedures and Standards

- For the idle testing procedure of the program, §177.203(a) and (b) of Pennsylvania's I/M regulation adopts federal idle test procedures by incorporation by reference from 40 CFR Part 51, subpart S, Appendix B(I). However, the I/M modeling in the appendix of the SIP assumes 2-speed idle testing of 1975 and newer vehicles in low-enhanced areas (idle testing of 1968-1974 vehicles). PA does not cite 40 CFR Part 51, Subpart S, Appendix B(2) for the federal 2-speed idle test procedure.
- Neither pressure nor purge evaporative test procedures are included or referenced in the regulations or in the SIP narrative. However, both pressure and purge testing is assumed in the performance standard modeling for the Philadelphia areas. This modeling assumes two additional model years of vehicles will be subject to pressure testing (1981 vs 1983) and five additional model years of vehicles subject to purge testing (1981 vs 1986), compared to EPA's performance standard. Pressure and purge procedures must be properly incorporated by reference in Pennsylvania's regulation, if they are to be utilized in final I/M program design.
- §177.203 of the regulation references EPA's draft procedures for ASM testing (for incorporation by reference from 40 CFR Part 85) upon completion by EPA. EPA cannot fully approve Pennsylvania's SIP until this procedure is finalized and incorporated in Pennsylvania's regulation.
- Pass/fail standards for all test procedures for all subject model years of vehicles must be included in the SIP. §177.204 of the Pennsylvania regulation states standards for idle testing, and reserves a section for ASM testing standards. Pressure/purge fail cutpoints are not provided, nor is there a section of the

regulation reserved for their inclusion. Performance standard modeling must be re-modeled to reflect these final cutpoints.

- The SIP should include a schedule, with annual deadlines, by when Federal installation managers are required to show proof of inspections for employee-owned vehicles operated on Federal installations. The SIP should also include sample documentation to be used by Federal installation managers to meet this requirement.
- The Commonwealth's regulation does not require that all criteria pollutants be measured upon retesting (not simply the pollutant that caused a failure), after a vehicle is failed for a given pollutant.

§51.358, Test Equipment

- §177.202(c), (d), and (e) of PA's regulation incorporate by reference (via the appropriate CFR references) EPA's test procedures for transient (upon finalization of final ASM specs), idle, and 2-speed idle equipment. No technical specifications have been provided or referenced for evaporative emissions testing. Final test equipment specifications must be incorporated in the Commonwealth's final SIP/regulation.
- §177.202(b)(2) requires a data link to PennDOT computers (as specified by the Department). Section 1 (p. 3) of the PA SIP states that a contractor will be responsible for data collection through periodic data transmissions. Pennsylvania has not satisfied the requirement that test data be transmitted via a real-time data link.
- Further detail regarding the data collection contractor must be provided in the final SIP. This should include the RFP and the contract for that vendor. Additionally, the SIP narrative should fully address that contractor's responsibilities and the funding mechanism for payment under a contract.

§51.359, Quality Control

- Quality assurance procedures must be developed and included in the final SIP. All quality control requirements from 40 CFR 51.359 must be addressed. Since quality control is to be primarily the responsibility of a private vendor, the SIP narrative should fully address that contractor's responsibilities and the funding mechanism for payment under a contract.

§51.360, Waivers & Compliance via Diagnostic Inspection

- Per EPA's I/M Flex Rule, waiver limits may be phased-in by states, with full waiver limits (per the Clean Air Act) beginning January 1, 1998. §177.282 of the Pennsylvania regulation requires that the final waiver be \$450 + CPI adjustment (from 1989), beginning with the third year (cycle) of testing. If Pennsylvania's program is implemented in mid-1997, the full waiver limit would not begin until at least

mid-1999. For those areas beginning testing in 1999, final waivers would not be in place until beginning at least 2001.

- The Commonwealth's regulation allows emission station inspectors to grant waivers directly to motorists. This directly conflicts with the quality control provisions for waivers in 40 CFR 51.360(c), which allows states to delegate waiver issuance to a single contractor, but not directly to test station inspectors.
- 67 PA §177.281(5) allows diagnostic waivers for "transient" tested vehicles. According to the definitions section of the regulation, "transient testing" is expanded from Federal definitions [40 CFR 51.360(8) only allows diagnostic waivers for vehicles undergoing IM240 testing, using EPA's recommended cutpoints]. Pennsylvania's definition allows ASM to be defined as a transient test, although it is actually a loaded steady-state test. EPA's regulations do not support the use of ASM testing to grant diagnostic waivers.

§51.361, Motorist Compliance Enforcement

- Section 182(c)(3)(C)(iv) of the Clean Air Act requires states to utilize registration denial enforcement, unless the state has an existing alternative measure and demonstrates to EPA's Administrator that this measure is more effective than registration denial. Pennsylvania has not made such a demonstration in its SIP to justify the continuation of its sticker enforcement program. Instead, Section L of the SIP merely contains merely a statement that "PA's sticker enforcement program is more effective than registration denial enforcement". 40 CFR 51.361 sets forth requirements that must be included in this demonstration to be approvable by EPA.
- §178.651 of Pennsylvania's regulation refers to PennDOT's quality assurance personnel or other authorized personnel, as those issuing violations under that section. This is the only regulatory reference to enforcement personnel. The SIP should specify that state police and quality assurance contractor personnel (if applicable) will serve as enforcement staff.
- The SIP does not contain an expected compliance rate or the current compliance rate for the existing program (accounting for loopholes, counterfeiting, unregistered vehicles, stolen stickers, etc). The SIP should include this analysis (based upon actual data), accompanied by a discussion of how the estimate was derived. The SIP should also include estimates of the effect of closing these loopholes, and otherwise improving the sticker enforcement mechanism. This is particularly important for the Commonwealth, since improved effectiveness is touted as a measure to justify the network design under the National Highway Systems Act.
- The I/M program should use an external, easily visible and unambiguous identification of subject vehicles' compliance status. While Pennsylvania's I/M sticker identifies the vehicle's compliance, it does not identify whether a vehicle passed or received a waiver, nor can it alone identify subject vehicles which are subject to testing, but have never received a test.

- 75 C.S. §4703(h) establishes a penalty for persons operating a vehicle without an emissions inspection of \$25 per violation. This penalty should reflect (at a minimum) the upper cost limit of non-compliance, or the \$450 waiver cost (adjusted to CPI) + a typical test fee.
- The Commonwealth should perform surveys involving at least 10% or 10,000 (whichever is less) of subject vehicles, to verify compliance. Section L of Commonwealth's draft SIP narrative (p. 33) contains a commitment to conduct parking lot surveys if effectiveness drops below 96%. However, no mechanism to track actual effectiveness is included, nor is there a commitment to perform surveys on 10% of the subject population.

§51.362, Motorist Compliance Enforcement Program Oversight

- Section M of Pennsylvania's draft SIP narrative commits to contract with a private vendor charged with developing a quality assurance procedures manual. Additionally, this contractor is to enforce quality control (e.g. performance of covert/overt audits) – with State Police issuing violations. The quality assurance procedures manual must be included in the final Pennsylvania SIP. 40 CFR 51.362 contains specific requirements for enforcement oversight which must be addressed in Pennsylvania's SIP. Additionally, the RFP and/or contract for the quality assurance contractor should be provided
- The final SIP should also describe information management activities/procedures for the program. Since data collection and information management for the program will be the responsibility of a private vendor, information on the RFP and contract should also be included.

§51.363, Quality Assurance

- The quality assurance procedures manual (to be developed by a private vendor), should be submitted upon its completion as part of the final SIP. This procedures manual should address the requirements of 40 CFR 51.363.
- The frequency of both overt and covert performance audits, based on the number of inspection stations and inspectors, should be provided in the SIP, possibly to be included in the QA procedures document.
- The SIP narrative should contain a description of the partnership with the state police for issuance of NOVs and any auditing responsibilities. This should include a description of the state police resources that are to be dedicated to these tasks – possibly to include the legal authority to make use of the police for this function.
- If performance audits are to be the joint responsibility of the Department and a private vendor, the SIP should describe the responsibilities of each, in detail, and the resources (personnel and financial) to be devoted to each.

§51.364, Enforcement Against Contractors, Stations and Inspectors

- While the penalties against stations and inspectors in the Commonwealth's regulation penalty schedule are adequate, §177.602(b) of PA's regulation allows stations to accept a "point system" assessment, in lieu of suspension (if the station owner was without knowledge of the violation). Points are reduced over time (at the rate of 2 per year) and suspensions/fines are not doled out until a minimum point limit is reached. This point system allows even serious offenses to occur, one or more times, without imposition of even a single day of suspension or any fine. This is an unacceptably lenient method of avoiding adjudication of hearings.
- §177.652 of the Commonwealth's regulation states that PennDOT "may order the surrender, upon demand" of licenses, inspection documents, signs, records, etc. from suspended station owners or inspectors." However, confiscation is clearly at the discretion of PennDOT personnel. To prevent involvement in emissions testing during suspension periods, the rule must require the confiscation of these testing materials.
- §177.651 of the PA regulation provides the opportunity for a Department hearing, within 14 days of a request, upon issuance of suspension to a station or inspector. Section O (p. 38) of the SIP narrative seems to provide that penalties are not imposed until a requested hearing is held. EPA's regulations requires that suspension authority be immediate upon discovery of a violation or equipment failure, and that hearings be held in three business days. If this authority is prohibited by state constitution, the SIP should cite this authority.
- The SIP should require the Department to maintain records of all enforcement activities (including all warnings, civil fines, suspensions, revocations, and violations). This should be included in the QA procedures document in the SIP. This data should then be used to compile and report annually to EPA statistics on enforcement activities.

§51.365, Data Collection

- The Commonwealth's SIP and regulation do not require inspectors to enter/collect data on a vehicle being tested. There is only a requirement that test equipment be designed to accept certain data elements and that data be collected in accordance with EPA requirements. The SIP should state what data is to be entered into the analyzer by the inspector (not just that data will be collected in accordance with EPA regulations, as the SIP text states).
- There is no regulatory requirement that the analyzer be required to record: quality control check information, lockouts, attempted tampering with the analyzer, and other recordable quality control info related to the analyzer (e.g. service calls).

§51.366, Data Analysis and Reporting

- The SIP states that data analysis and submission of test data reports to EPA are to be the responsibilities of a private vendor. The RFP/contract for the vendor, and/or the data analysis procedures document should be included in the final SIP. It is unclear whether data reports are to be submitted by the Department, or directly by the contractor.
- The SIP does not specify requirements for the content (i.e. type of information) in the annual reports. However, the SIP does commit to submit annually: a "Test Data Report", a "Quality Assurance Report", a "Quality Control Report", and an "Enforcement Report". The information to be contained in these reports must be specified in the SIP – or the contractor RFP detailing this info should be included in the SIP. All reporting should comply with the requirements of 40 CFR 51.366.

§51.367, Inspector Training and Licensing or Certification

- Section R (p. 43) of the Commonwealth's SIP narrative contains a commitment to contract with a private vendor who will develop a training program (and assist in the implementation of that training program). This training program description must be submitted as part of the final SIP. If the vendor is to deliver the training program, the Commonwealth should commit to monitor and evaluate the training program.
- The written test for inspectors should be described in the Commonwealth's SIP. Section R of the SIP text describes that the "hands-on" test shall consist of a trainee demonstrating, without assistance, the ability to conduct a proper inspection".
- The actual process of obtaining inspector and station certification/licensing should be clearly set forth in the SIP.
- The SIP should require that re-certification for inspectors be based upon completion of an exam or a refresher training course. §177.408(c)(3) of the PA regulation currently states that re-certification will be based upon procedures to be established by PennDOT.

§51.368, Public Information and Consumer Protection

- Section S (p. 44) of the SIP states that the Department will contract with a private vendor to provide public information services. The RFP/contract for this vendor should be included in the final SIP.
- The SIP should include a plan to offer motorists that fail the test repair facility performance data and diagnostic information. Pennsylvania has not addressed this requirement in its present SIP.
- The Commonwealth's draft SIP does not include provisions to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M program. For instance, can the Commonwealth provide information to consumers on how to locate a qualified repair technician? The Commonwealth should be able to provide motorists with information on station repair effectiveness.

- The SIP narrative should contain a description of the public complaint process, and a follow-up process, if a citizen is dissatisfied with testing.

§51.369, Improving Repair Effectiveness

- Per EPA requirements, the SIP needs to contain performance monitoring requirements or technical assistance programs for repair technicians. The Commonwealth must ensure that repair technician assistance be available for use by repair technicians.
- The PA SIP does not include provisions for facility performance monitoring, as required by EPA regulation.

§51.370, Compliance with Recall Notices

- EPA requires that the Commonwealth establish a process for notifying motorists of specific recall requirements prior to the test deadline. The Commonwealth's SIP states that this is the responsibility of the auto manufacturers, and it will not issue its own notification under the I/M program.
- The Commonwealth's SIP does not specify that the data collection system indicate the recall campaign number for those vehicles in the recall database.

§51.371, On-road Testing

- The SIP narrative states that this portion of the SIP will be handled by a private vendor. At this time, neither the contract, nor the RFP have been drafted. No budget has been submitted for this contract, nor has the number of employees dedicated to the on-road testing been specified by the state.
- The Commonwealth's SIP does not commit to conduct the minimum number of on-road tests per test cycle (i.e. 20,000 per year for Pennsylvania's annual program), per the requirements of 40 CFR 51.371. Pennsylvania cannot perform 20,000 on-road tests per biennial time period for an annual inspection program to meet this requirement, as claimed in Section V of the SIP narrative.

§51.372, State Implementation Plan Submittals

- The SIP does not include an implementation schedule, including: the program start date(s), dates by which the various RFPs for key program functions will be issued, dates by which contractors are to be hired, dates by which stations must be licensed/obtain equipment, etc.
- The Commonwealth's SIP narrative should clearly set forth implementation schedules for both the high-enhanced and low-enhanced programs. Neither the SIP narrative nor the regulation indicates the official start dates for the programs.

- Pennsylvania has not included schedules for issuance of RFPs for contracting with vendors on various program elements, nor have they issued all necessary procedures documents.
- Since the SIP does not include testing cutpoints, neither does it indicate whether there will be phase-in cutpoints, or when final cutpoints will be effective.
- A list of zip codes for all areas of subject counties should be provided in the SIP.

§51.373, Implementation Deadlines

- The SIP does not contain a schedule for adoption/implementation of the program. The actual start date of the program is not clearly stated within the submittal for the National Highway Act submittal.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III

841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

Ms. Betty L. Serian
Deputy Secretary for Safety Administration
Pennsylvania Department of Transportation
Room 1200
Transportation & Safety Building
Harrisburg, Pennsylvania 17120

MAR 28 1996

Dear Ms. Serian:

Please find enclosed comments from the Environmental Protection Agency (EPA) regarding Pennsylvania's proposed inspection and maintenance (I/M) program. These comments stem from our review of the January 25, 1996 version of a draft Commonwealth I/M SIP and accompanying regulation.

A complete list of EPA's comments from our review of the draft SIP package, ordered according to EPA's I/M Requirements Rules, is enclosed with this letter. A detailed description of a few of those concerns is found below. These concerns, in particular, must be addressed before EPA can fully approve Pennsylvania's program under the EPA I/M Rule Requirements Regulation:

The Clean Air Act requires that compliance with the I/M program (by motorists) be enforced through a system of registration denial, unless the state has an existing alternative that has been demonstrated to EPA to be more effective. Pennsylvania has not made such a demonstration to justify the current sticker enforcement program. Instead the SIP contains a statement that "sticker enforcement is more effective than registration denial". EPA has set forth a clear process for such a demonstration in its I/M Program Requirements Rule. Furthermore, Pennsylvania statute limits the maximum penalty for motorists operating vehicles without a valid sticker to a \$25 fine per violation, versus a potential cost to a complying motorist of the emission test fee + the cost of associated repairs, up to the waiver limit.

The draft SIP does not include a program implementation schedule, indicating dates by which: testing will begin for each program, RFPs will be issued to contract out key program functions, contractors are to be hired, stations must be licensed/must obtain equipment, etc.

Also, the SIP does not include provisions to protect the public from potential fraud and abuse by inspectors, mechanics, or others involved in the I/M program. Neither does it provide consumers an avenue for obtaining referrals of qualified repair technicians, or for a station's repair effectiveness performance.

Pennsylvania's draft regulation requires that the final waiver limits be fully phased-in by start



of the third testing cycle. If Pennsylvania's program is implemented in mid-1997, the full waiver limit would not begin until at least mid-1999. For areas where testing is to begin in 1999, final waivers would not be in place until at least 2001. Additionally, under the draft SIP, waivers may be issued by any participating test inspector, thus removing any quality control on issuance of waivers.

The draft regulation requires a data link between station test analyzers and a PennDOT contractor's computer, and the draft PA SIP states that stations must periodically send data transmissions. Pennsylvania has not satisfied the EPA requirement that test data be transmitted via a real-time data link. A real-time, bi-directional link serves to reduce the possibility of consumers "shopping around" for initial passing test at different stations or improper entry of that data element by a test station, which can in turn, improve the accuracy of the compliance rate determined for the program.

Finally, while the penalties against stations and inspectors in the Commonwealth's regulatory penalty schedule are adequate, the draft regulation establishes a "point system", which can be used to settle violations in lieu of suspension. Under this system, points would fade over time and suspensions/fines would not be imposed until a minimum limit is reached. This point system allows even serious offenses to occur one or more times, without imposition any fine or even a single day of suspension.

Each of these program aspects differs from Federal I/M requirements, and is not supported by the flexibility granted for I/M programs under the National Highway Systems Act of 1995. I would welcome the opportunity to meet with you or your staff to discuss means of addressing these inconsistencies. I am aware that some of these issues may be topics of discussion for the stakeholders' process established by Governor Ridge. I would like to take this opportunity to thank you for working diligently to meet the stringent deadlines under the National Highway Systems Act, and for providing EPA with the opportunity to provide comments on a preliminary draft version of the SIP.

Sincerely,


Thomas J. Maslany, Director
Air, Radiation & Toxics Division

Enclosure

COMMENTS ON THE PENNSYLVANIA I/M SIP, ORDERED ACCORDING TO EPA I/M REGULATIONS

§51.350, Applicability

- PA SIP should contain a list of zip codes for all areas subject to I/M
- The I/M regulation should convey that the entire county is subject to the program [perhaps under the definition for "subject area"]. The SIP narrative should also address the eight counties exempted from the Pennsylvania I/M program which are part of a subject MSA, but which because of their population density of under 200 persons per square mile (and since they comprise less than 50% of the MSA), are exempted from the program.
- The SIP narrative should discuss that the I/M program does not have a sunset date. The SIP could cite the legal authority to adopt an I/M program that does not sunset at some future date.

§51.351, Enhanced I/M Performance Standard

- The SIP narrative should include a list of those measures which Pennsylvania is adopting to alleviate the shortfall between centralized and decentralized program credits. Per the National Highway Systems Act, these measures need not be quantified at this time. However, this listing serves to group those measures which distinguish the enhanced program from Pennsylvania's current 11-county program, even if those measures are included separately elsewhere in the SIP.
- The "Enhanced I/M Performance Standard" section of the SIP narrative (p. 13) states that modeling characteristics for the program include functional pressure and purge testing of 1981 and newer model year vehicles (presumably for the entire state). However, this testing is not possible in the low-enhanced areas of the Commonwealth that will utilize BAR 90 test analyzers. Additionally, functional evaporative testing was not modelled for those areas. The network type and/or performance standard sections of the SIP should describe the test type (i.e. ASM w/ pressure & purge and a visual component inspection), for different weight classes and model years of vehicles, for each of the different program areas (i.e. the "high-enhanced" versus the "low-enhanced" programs.)
- The MOBILE modeling runs for the high-enhanced testing areas assume testing begins in January 1995, not the 1997 start date cited in the SIP narrative's description of the enhanced performance standard. Modeling should assume a later start date.

Additionally, for the Pittsburgh counties (centralized runs), ATP is assumed to begin in 1995, and for the Allentown counties ATP is modeled starting in 1998.

- The performance standard for the enhanced counties was modeled using idle testing instead of 2-speed idle testing (see the first I/M line in the MOBILE performance standard in the SIP appendix). This mistake was not repeated in the runs for the proposed program.

§51.352, Basic I/M Performance Standard

- Not Applicable

§51.353, Network Type & Program Evaluation

- EPA's I/M Rule, codified at 40 CFR Part 51.353(c)(3) requires that the program evaluation be performed using transient, *mass-based* testing. Section D of the SIP narrative states that the program evaluation will consist of oversight of official inspection station inspectors' performance of calibration of test equipment and of the testing, itself (using test equipment required for that particular subject area). EPA's proposed OTC Flexibility Rulemaking allows areas utilizing that approach to eliminate the program evaluation criteria. It is unclear in the SIP whether evaluation testing is to be performed in all subject areas. But, under this SIP, evaluation data could presumably consist of BAR90 test results and ASM test results (in addition to pressure/purge and/or ATP test results).
- Section D(A) of the SIP (p.16) states that EPA's policy under the National Highway Systems Act precludes a network type description. While the SIP need not include an "equivalency demonstration", per the I/M Rule, the SIP should include a description of the network design. At the very least, the network description serves to inform the public about the various testing requirements, including, for example, where and how often testing will be needed.
- The SIP narrative does not address Pennsylvania's legislative authority to conduct a program evaluation, as required under 40 CFR Part 51.353. However, since the evaluation described in the SIP merely includes observation of actual tests, in inspection station bays, it would appear that no additional legal authority is needed to perform the tests. The SIP should describe the Commonwealth's legal authority to contract with a private vendor to perform the evaluation process, and should include a schedule for this process. The SIP does not commit to conduct a program evaluation, as required under the National Highway Systems Designation Act, or to submit the results of that evaluation to EPA at the end of the interim approval period set forth in that legislation.
- The SIP narrative should include a description of the schedule for the evaluation schedule and protocol. Although this task need not be completed prior to interim approval under the National Highway Safety Act, it must be completed in the final version of the Commonwealth's SIP before full approval can be granted. Also, the resources and personnel (or contractor resources) to be allocated to program evaluation must be specified in the final SIP.
- The SIP narrative does not have a specific section listing those measures which allow the proposed decentralized program network design to meet the performance standard (based on test-only testing).

Per EPA's December 12, 1995 policy memo and the National Highway Safety Act, these measures must be listed separately in the SIP, even if they are included in the SIP separately.

- Section D of the PA SIP only requires that an analysis of the evaluation data be submitted to EPA, and not the actual data. EPA's I/M rule requires that this data be submitted, as well as an analysis of that data. Also, EPA's I/M Rule requires that this data be used to determine local fleet emission factors and to assess actual program effectiveness. The Commonwealth's SIP does not address these uses of evaluation data.

§51.354, Adequate Tools and Resources

- Pennsylvania does not have dedicated funding for oversight of the I/M program, but instead relies upon PennDOT general funds (as appropriated annually by the state legislature.) Although the SIP states that PennDOT is seeking legislative amendments to allow for an application fee to potential test facilities and a sticker purchase fee to motorists (and a dedicated fund for those fees), the SIP does not address whether these sources would provide adequate funding. The SIP states that administrative oversight of the program is to be conducted by current PennDOT staff, but does not include estimates of staff and resources needed to perform those functions.
- The SIP narrative does not provide that PennDOT currently has or will have a dedicated funding source, or authority to allow the Commonwealth to contract with private vendors to conduct various functions under the I/M program (i.e. the remote sensing, program management, quality assurance, and data collection portions of the program).
- Under the proposed program, the Commonwealth would not receive any portion of the testing fee. Section 51.354 of the CFR Part 40 clearly requires that states provide that a the program will maintain a funding source to ensure adequate program oversight, management and capital expenditures. The SIP, in its present form, lacks a detailed budget plan for both personnel and equipment resources and a mechanism to ensure future funding of the program.

§51.355, Test Frequency and Convenience

- Section F of the PA SIP states only that subject vehicles must pass an annual emissions test before a safety inspection can be performed. The SIP does not clearly address public testing notification schedules. §177.51(3) of Pennsylvania's proposed regulation requires annual testing, but does not specify the mechanism or when motorists will be notified of the emissions testing requirement. Nor is there a description in the SIP of the internal process for issuing motorist notification of testing requirements.
- 40 CFR Part 51.355 requires that sufficient safeguards be built into the enforcement system to ensure that vehicles will be tested according to the state's schedule. Pennsylvania's SIP does not call for the use of computer matching or any registration-linked mechanism to ensure that motorists comply with testing

requirements in a timely manner. 75 Pa. C.S. §4703(h) limits the fine for operating a subject vehicle without an inspection sticker to \$25, and Pennsylvania's regulations do not include late fees for motorists failing to receive a test by any specific deadline.

§51.356, Vehicle Coverage

- The PA SIP text does not contain an estimate of the number (as of time of submittal) of subject vehicles, or a breakdown of those subject to the "high enhanced" Philadelphia program vs the "low enhanced" program, for the remainder of the state. Appendix A-2 of the SIP text provides 1994 estimates of the number of subject vehicles in the 25 subject counties. This table lists passenger cars and LDGT1 and LDGT2 vehicles. The "Definitions" section of PA's regulation lists light-duty trucks as trucks weighing less than 6,000 lbs, but contains no definition for a heavy-duty truck. However, the regulation also subjects trucks up to 9,000 lbs GVWR to testing. This makes it difficult to interpret subject weight classes. If Pennsylvania does not have a registration-defined weight class cutoff for trucks less than 6,000 lbs GVWR, the mechanism for including subject heavy-duty trucks is unclear.
- The SIP does not provide an estimate of unregistered vehicles that are required to be registered in a program area (in addition to the total number of registered vehicles in subject areas).

§51.357, Test Procedures and Standards

- For the idle testing procedure of the program, §177.203(a) and (b) of Pennsylvania's I/M regulation adopts federal idle test procedures by incorporation by reference from 40 CFR Part 51, subpart S, Appendix B(I). However, the I/M modeling in the appendix of the SIP assumes 2-speed idle testing of 1975 and newer vehicles in low-enhanced areas (idle testing of 1968-1974 vehicles). PA does not cite 40 CFR Part 51, Subpart S, Appendix B(2) for the federal 2-speed idle test procedure.
- Neither pressure nor purge evaporative test procedures are included or referenced in the regulations or in the SIP narrative. However, both pressure and purge testing is assumed in the performance standard modeling for the Philadelphia areas. This modeling assumes two additional model years of vehicles will be subject to pressure testing (1981 vs 1983) and five additional model years of vehicles subject to purge testing (1981 vs 1986), compared to EPA's performance standard. Pressure and purge procedures must be properly incorporated by reference in Pennsylvania's regulation, if they are to be utilized in final I/M program design.
- §177.203 of the regulation references EPA's draft procedures for ASM testing (for incorporation by reference from 40 CFR Part 85) upon completion by EPA. EPA cannot fully approve Pennsylvania's SIP until this procedure is finalized and incorporated in Pennsylvania's regulation.
- Pass/fail standards for all test procedures for all subject model years of vehicles must be included in the SIP. §177.204 of the Pennsylvania regulation states standards for idle testing, and reserves a section for ASM testing standards. Pressure/purge fail cutpoints are not provided, nor is there a section of the

regulation reserved for their inclusion. Performance standard modeling must be re-modeled to reflect these final cutpoints.

- The SIP should include a schedule, with annual deadlines, by when Federal installation managers are required to show proof of inspections for employee-owned vehicles operated on Federal installations. The SIP should also include sample documentation to be used by Federal installation managers to meet this requirement.
- The Commonwealth's regulation does not require that all criteria pollutants be measured upon retesting (not simply the pollutant that caused a failure), after a vehicle is failed for a given pollutant.

§51.358, Test Equipment

- §177.202(c), (d), and (e) of PA's regulation incorporate by reference (via the appropriate CFR references) EPA's test procedures for transient (upon finalization of final ASM specs), idle, and 2-speed idle equipment. No technical specifications have been provided or referenced for evaporative emissions testing. Final test equipment specifications must be incorporated in the Commonwealth's final SIP/regulation.
- §177.202(b)(2) requires a data link to PennDOT computers (as specified by the Department). Section 1 (p. 3) of the PA SIP states that a contractor will be responsible for data collection through periodic data transmissions. Pennsylvania has not satisfied the requirement that test data be transmitted via a real-time data link.
- Further detail regarding the data collection contractor must be provided in the final SIP. This should include the RFP and the contract for that vendor. Additionally, the SIP narrative should fully address that contractor's responsibilities and the funding mechanism for payment under a contract.

§51.359, Quality Control

- Quality assurance procedures must be developed and included in the final SIP. All quality control requirements from 40 CFR 51.359 must be addressed. Since quality control is to be primarily the responsibility of a private vendor, the SIP narrative should fully address that contractor's responsibilities and the funding mechanism for payment under a contract.

§51.360, Waivers & Compliance via Diagnostic Inspection

- Per EPA's I/M Flex Rule, waiver limits may be phased-in by states, with full waiver limits (per the Clean Air Act) beginning January 1, 1998. §177.282 of the Pennsylvania regulation requires that the final waiver be \$450 + CPI adjustment (from 1989), beginning with the third year (cycle) of testing. If Pennsylvania's program is implemented in mid-1997, the full waiver limit would not begin until at least

mid-1999. For those areas beginning testing in 1999, final waivers would not be in place until beginning at least 2001.

- The Commonwealth's regulation allows emission station inspectors to grant waivers directly to motorists. This directly conflicts with the quality control provisions for waivers in 40 CFR 51.360(c), which allows states to delegate waiver issuance to a single contractor, but not directly to test station inspectors.
- 67 PA §177.281(5) allows diagnostic waivers for "transient" tested vehicles. According to the definitions section of the regulation, "transient testing" is expanded from Federal definitions [40 CFR 51.360(8) only allows diagnostic waivers for vehicles undergoing IM240 testing, using EPA's recommended cutpoints]. Pennsylvania's definition allows ASM to be defined as a transient test, although it is actually a loaded steady-state test. EPA's regulations do not support the use of ASM testing to grant diagnostic waivers.

§51.361, Motorist Compliance Enforcement

- Section 182(c)(3)(C)(iv) of the Clean Air Act requires states to utilize registration denial enforcement, unless the state has an existing alternative measure and demonstrates to EPA's Administrator that this measure is more effective than registration denial. Pennsylvania has not made such a demonstration in its SIP to justify the continuation of its sticker enforcement program. Instead, Section L of the SIP merely contains merely a statement that "PA's sticker enforcement program is more effective than registration denial enforcement". 40 CFR 51.361 sets forth requirements that must be included in this demonstration to be approvable by EPA.
- §178.651 of Pennsylvania's regulation refers to PennDOT's quality assurance personnel or other authorized personnel, as those issuing violations under that section. This is the only regulatory reference to enforcement personnel. The SIP should specify that state police and quality assurance contractor personnel (if applicable) will serve as enforcement staff.
- The SIP does not contain an expected compliance rate or the current compliance rate for the existing program (accounting for loopholes, counterfeiting, unregistered vehicles, stolen stickers, etc). The SIP should include this analysis (based upon actual data), accompanied by a discussion of how the estimate was derived. The SIP should also include estimates of the effect of closing these loopholes, and otherwise improving the sticker enforcement mechanism. This is particularly important for the Commonwealth, since improved effectiveness is touted as a measure to justify the network design under the National Highway Systems Act.
- The I/M program should use an external, easily visible and unambiguous identification of subject vehicles' compliance status. While Pennsylvania's I/M sticker identifies the vehicle's compliance, it does not identify whether a vehicle passed or received a waiver, nor can it alone identify subject vehicles which are subject to testing, but have never received a test.

- 75 C.S. §4703(h) establishes a penalty for persons operating a vehicle without an emissions inspection of \$25 per violation. This penalty should reflect (at a minimum) the upper cost limit of non-compliance, or the \$450 waiver cost (adjusted to CPI) + a typical test fee.
- The Commonwealth should perform surveys involving at least 10% or 10,000 (whichever is less) of subject vehicles, to verify compliance. Section L of Commonwealth's draft SIP narrative (p. 33) contains a commitment to conduct parking lot surveys if effectiveness drops below 96%. However, no mechanism to track actual effectiveness is included, nor is there a commitment to perform surveys on 10% of the subject population.

§51.362, Motorist Compliance Enforcement Program Oversight

- Section M of Pennsylvania's draft SIP narrative commits to contract with a private vendor charged with developing a quality assurance procedures manual. Additionally, this contractor is to enforce quality control (e.g. performance of covert/overt audits) – with State Police issuing violations. The quality assurance procedures manual must be included in the final Pennsylvania SIP. 40 CFR 51.362 contains specific requirements for enforcement oversight which must be addressed in Pennsylvania's SIP. Additionally, the RFP and/or contract for the quality assurance contractor should be provided.
- The final SIP should also describe information management activities/procedures for the program. Since data collection and information management for the program will be the responsibility of a private vendor, information on the RFP and contract should also be included.

§51.363, Quality Assurance

- The quality assurance procedures manual (to be developed by a private vendor), should be submitted upon its completion as part of the final SIP. This procedures manual should address the requirements of 40 CFR 51.363.
- The frequency of both overt and covert performance audits, based on the number of inspection stations and inspectors, should be provided in the SIP, possibly to be included in the QA procedures document.
- The SIP narrative should contain a description of the partnership with the state police for issuance of NOVs and any auditing responsibilities. This should include a description of the state police resources that are to be dedicated to these tasks – possibly to include the legal authority to make use of the police for this function.
- If performance audits are to be the joint responsibility of the Department and a private vendor, the SIP should describe the responsibilities of each, in detail, and the resources (personnel and financial) to be devoted to each.

§51.364, Enforcement Against Contractors, Stations and Inspectors

- While the penalties against stations and inspectors in the Commonwealth's regulation penalty schedule are adequate, §177.602(b) of PA's regulation allows stations to accept a "point system" assessment, in lieu of suspension (if the station owner was without knowledge of the violation). Points are reduced over time (at the rate of 2 per year) and suspensions/fines are not doled out until a minimum point limit is reached. This point system allows even serious offenses to occur, one or more times, without imposition of even a single day of suspension or any fine. This is an unacceptably lenient method of avoiding adjudication of hearings.
- §177.652 of the Commonwealth's regulation states that PennDOT "may order the surrender, upon demand" of licenses, inspection documents, signs, records, etc. from suspended station owners or inspectors." However, confiscation is clearly at the discretion of PennDOT personnel. To prevent involvement in emissions testing during suspension periods, the rule must require the confiscation of these testing materials.
- §177.651 of the PA regulation provides the opportunity for a Department hearing, within 14 days of a request, upon issuance of suspension to a station or inspector. Section O (p. 38) of the SIP narrative seems to provide that penalties are not imposed until a requested hearing is held. EPA's regulations requires that suspension authority be immediate upon discovery of a violation or equipment failure, and that hearings be held in three business days. If this authority is prohibited by state constitution, the SIP should cite this authority.
- The SIP should require the Department to maintain records of all enforcement activities (including all warnings, civil fines, suspensions, revocations, and violations). This should be included in the QA procedures document in the SIP. This data should then be used to compile and report annually to EPA statistics on enforcement activities.

§51.365, Data Collection

- The Commonwealth's SIP and regulation do not require inspectors to enter/collect data on a vehicle being tested. There is only a requirement that test equipment be designed to accept certain data elements and that data be collected in accordance with EPA requirements. The SIP should state what data is to be entered into the analyzer by the inspector (not just that data will be collected in accordance with EPA regulations, as the SIP text states).
- There is no regulatory requirement that the analyzer be required to record: quality control check information, lockouts, attempted tampering with the analyzer, and other recordable quality control info related to the analyzer (e.g. service calls).

§51.366, Data Analysis and Reporting

- The SIP states that data analysis and submission of test data reports to EPA are to be the responsibilities of a private vendor. The RFP/contract for the vendor, and/or the data analysis procedures document should be included in the final SIP. It is unclear whether data reports are to be submitted by the Department, or directly by the contractor.
- The SIP does not specify requirements for the content (i.e. type of information) in the annual reports. However, the SIP does commit to submit annually: a "Test Data Report", a "Quality Assurance Report", a "Quality Control Report", and an "Enforcement Report". The information to be contained in these reports must be specified in the SIP -- or the contractor RFP detailing this info should be included in the SIP. All reporting should comply with the requirements of 40 CFR 51.366.

§51.367, Inspector Training and Licensing or Certification

- Section R (p. 43) of the Commonwealth's SIP narrative contains a commitment to contract with a private vendor who will develop a training program (and assist in the implementation of that training program). This training program description must be submitted as part of the final SIP. If the vendor is to deliver the training program, the Commonwealth should commit to monitor and evaluate the training program.
- The written test for inspectors should be described in the Commonwealth's SIP. Section R of the SIP text describes that the "hands-on" test shall consist of a trainee demonstrating, without assistance, the ability to conduct a proper inspection".
- The actual process of obtaining inspector and station certification/licensing should be clearly set forth in the SIP.
- The SIP should require that re-certification for inspectors be based upon completion of an exam or a refresher training course. §177.408(c)(3) of the PA regulation currently states that re-certification will be based upon procedures to be established by PennDOT.

§51.368, Public Information and Consumer Protection

- Section S (p. 44) of the SIP states that the Department will contract with a private vendor to provide public information services. The RFP/contract for this vendor should be included in the final SIP.
- The SIP should include a plan to offer motorists that fail the test repair facility performance data and diagnostic information. Pennsylvania has not addressed this requirement in its present SIP.
- The Commonwealth's draft SIP does not include provisions to protect the public from fraud and abuse by inspectors, mechanics, and others involved in the I/M program. For instance, can the Commonwealth provide information to consumers on how to locate a qualified repair technician? The Commonwealth should be able to provide motorists with information on station repair effectiveness.

- The SIP narrative should contain a description of the public complaint process, and a follow-up process, if a citizen is dissatisfied with testing.

§51.369, Improving Repair Effectiveness

- Per EPA requirements, the SIP needs to contain performance monitoring requirements or technical assistance programs for repair technicians. The Commonwealth must ensure that repair technician assistance be available for use by repair technicians.
- The PA SIP does not include provisions for facility performance monitoring, as required by EPA regulation.

§51.370, Compliance with Recall Notices

- EPA requires that the Commonwealth establish a process for notifying motorists of specific recall requirements prior to the test deadline. The Commonwealth's SIP states that this is the responsibility of the auto manufacturers, and it will not issue its own notification under the I/M program.
- The Commonwealth's SIP does not specify that the data collection system indicate the recall campaign number for those vehicles in the recall database.

§51.371, On-road Testing

- The SIP narrative states that this portion of the SIP will be handled by a private vendor. At this time, neither the contract, nor the RFP have been drafted. No budget has been submitted for this contract, nor has the number of employees dedicated to the on-road testing been specified by the state.
- The Commonwealth's SIP does not commit to conduct the minimum number of on-road tests per test cycle (i.e. 20,000 per year for Pennsylvania's annual program), per the requirements of 40 CFR 51.371. Pennsylvania cannot perform 20,000 on-road tests per biennial time period for an annual inspection program to meet this requirement, as claimed in Section V of the SIP narrative.

§51.372, State Implementation Plan Submittals

- The SIP does not include an implementation schedule, including: the program start date(s), dates by which the various RFPs for key program functions will be issued, dates by which contractors are to be hired, dates by which stations must be licensed/obtain equipment, etc.
- The Commonwealth's SIP narrative should clearly set forth implementation schedules for both the high-enhanced and low-enhanced programs. Neither the SIP narrative nor the regulation indicates the official start dates for the programs.

- Pennsylvania has not included schedules for issuance of RFPs for contracting with vendors on various program elements, nor have they issued all necessary procedures documents.
- Since the SIP does not include testing cutpoints, neither does it indicate whether there will be phase-in cutpoints, or when final cutpoints will be effective.
- A list of zip codes for all areas of subject counties should be provided in the SIP.

§51.373, Implementation Deadlines

- The SIP does not contain a schedule for adoption/implementation of the program. The actual start date of the program is not clearly stated within the submittal for the National Highway Act submittal.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2

Pennsylvania's draft regulation requires that the final waiver limits be fully phased-in by start of the third testing cycle. If Pennsylvania's program is implemented in mid-1997, the full waiver limit would not begin until at least mid-1999. For areas where testing is to begin in 1999, final waivers would not be in place until at least 2001. Additionally, under the draft SIP, waivers may be issued by any participating test inspector, thus removing any quality control on issuance of waivers.

The draft regulation requires a data link between station test analyzers and a PennDOT contractor's computer, and the draft PA SIP states that stations must periodically send data transmissions. Pennsylvania has not satisfied the EPA requirement that test data be transmitted via a real-time data link. A real-time, bi-directional link serves to reduce the possibility of consumers "shopping around" for initial passing test at different stations or improper entry of that data element by a test station, which can in turn, improve the accuracy of the compliance rate determined for the program.

Finally, while the penalties against stations and inspectors in the Commonwealth's regulatory penalty schedule are adequate, the draft regulation establishes a "point system", which can be used to settle violations in lieu of suspension. Under this system, points would fade over time and suspensions/fines would not be imposed until a minimum limit is reached. This point system allows even serious offenses to occur one or more times, without imposition any fine or even a single day of suspension.

Each of these program aspects differs from Federal I/M requirements, and is not supported by the flexibility granted for I/M programs under the National Highway Systems Act of 1995. I would welcome the opportunity to meet with you or your staff to discuss means of addressing these inconsistencies. I am aware that some of these issues may be topics of discussion for the stakeholders' process established by Governor Ridge. I would like to take this opportunity to thank you for working diligently to meet the stringent deadlines under the National Highway Systems Act, and for providing EPA with the opportunity to provide comments on a preliminary draft version of the SIP.

Sincerely,

Thomas J. Maslany, Director
Air, Radiation & Toxics Division

G:/USER/SHARE/BREHN/PA-IM.LET				CONCURRENCES			
SYMBOL	3AT21	3AT21 <i>RP</i>	3RC11	3AT00			
SURNAME	REHN	HENRY <i>3/29</i>	KATZ <i>3/28</i>	MASLANY			
DATE	<i>RRR</i>	<i>HH 3/28</i>	<i>JA</i>				



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

MAR 12 1996

Honorable James M. Seif, Secretary
Department of Environmental Protection
Commonwealth of Pennsylvania
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, Pennsylvania 17105-2063

Dear Mr. Seif:

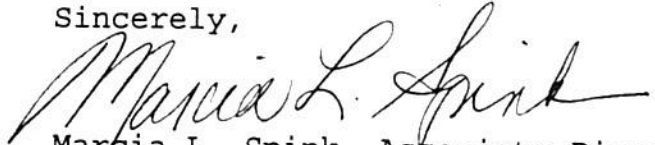
On September 13, 1995, the Environmental Protection Agency (EPA) received a revision to the Commonwealth of Pennsylvania State Implementation Plan (SIP) from the Department of Environmental Protection for oxygenated gasoline. EPA has determined that the submittal is administratively and technically complete, and are reviewing it to prepare a rulemaking notice.

As you know, EPA approved Pennsylvania's October 30, 1995 carbon monoxide (CO) redesignation request in a direct final rulemaking (DFR) action dated January 30, 1996. Upon the effective date of the DFR, the oxygenated gasoline program will become an approved contingency measure in the SIP. EPA was able to approve the transfer of the oxygenated gasoline program from a Section 211 SIP requirement to a maintenance plan contingency measure because Pennsylvania was able to demonstrate maintenance of the standard without implementation of the program. The rulemaking states, however, that the program will be required if there is a violation of the CO standard in the future. (See 61 FR 2929, Section B. Demonstration of Maintenance Projection Inventories)

EPA's approval of the oxygenated gasoline program as a contingency measure in the SIP will supersede our prior incorporation of the program at 40 CFR 52.2020(c)(88) and our future action on the September 13, 1995 oxygenated gasoline SIP revision as a mandatory and enforceable provision in the SIP. Pursuant to the maintenance plan SIP revision, the program will only become a required measure if the area violates the CO standard in the future.

If members of your staff have any questions, they may direct them to Kelly Bunker, Ozone/CO and Mobile Sources Section, at (215) 597-4554. She is the principal contact for this rulemaking.

Sincerely,

A handwritten signature in cursive script, reading "Marcia L. Spink". The signature is written in dark ink and is positioned above the printed name.

Marcia L. Spink, Associate Director
Air Programs



Pennsylvania Department of Environmental Protection

P.O. Box 2063
Harrisburg, PA 17105-2063
March 12, 1996

FILE

The Secretary

717-787-2814

The Honorable Carol M. Browner
Administrator
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

RECEIVED

MAR 15 1996

EPA, REGION III
OFFICE OF REGIONAL ADMINISTRATOR

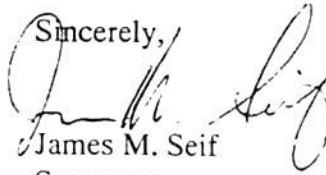
Dear Ms. Browner:

This letter is in response to the US Environmental Protection Agency's (EPA's) January 24, 1995, call for a revision of our State Implementation Plan (SIP) regarding the OTC Low Emission Vehicle requirements. In its final rulemaking approving the OTC LEV program, EPA indicated that a national program, such as the one formally proposed as National LEV (NLEV), could be a sufficient response to the LEV SIP requirement. However, because EPA has not finalized the NLEV program, the Commonwealth of Pennsylvania does not know whether NLEV will be a SIP option and therefore cannot reflect NLEV in its SIP at this time.

The Commonwealth wishes to indicate its support for additional emission reductions from new motor vehicles and in particular, an effective NLEV program. This is particularly important for Pennsylvania, because of our long Western border with non-OTC states. The Commonwealth and all OTC states need to know as soon as possible whether NLEV will be implemented and can be used in SIPs. We therefore urge EPA to finalize its NLEV rule as soon as possible, along with its determination that NLEV would be an acceptable response to the SIP call. Once automobile manufacturers opt into the program, EPA can make the formal finding that NLEV is in effect.

In addition, we need to reiterate the essential role for the Advanced Technology Vehicle (ATV) component provisions developed by the OTC states and auto manufacturers. We ask EPA to provide any needed technical assistance and address the issue of credits for the additional reductions achieved by introducing ATVs into the fleet.

We look forward to EPA's action on this issue in the near future so that we can achieve the reductions envisioned by the NLEV program.

Sincerely,

James M. Seif
Secretary

RECEIVED

MAR 18 1996

AIR, RADIATION & TOXICS
Division



FILE

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

FEB 16 1996

Honorable James M. Seif
Secretary
Department of Environmental Protection
Commonwealth of Pennsylvania
Market Street Office Building, 12th Floor
400 Market Street
P.O. Box 8468
Harrisburg, Pennsylvania 17105-8468

Dear Secretary Seif:

The Clean Air Act (Act) requires states with Serious, Severe, and Extreme ozone nonattainment areas to submit revisions to their State Implementation Plans to adopt a Clean Fuel program. See §§ 182(c)(4) and 246. The purpose of the Clean Fuel Fleet Program (CFFP) is to encourage the introduction of clean fuel vehicles and clean fuels into the market by requiring that certain fleet operators include a specified percentage of clean fuel vehicles in their new fleet vehicle purchases each year beginning in 1998. Section 182(c)(4)(B) allows states to opt out of the CFFP by submitting an acceptable substitute program to EPA.

Pennsylvania did not submit a CFFP or a substitute program to EPA, therefore, EPA issued a finding of failure to submit a required program on August 18, 1994. This finding commenced the 18-month sanction clock, which expires on February 16, 1996.

In February 1994, the states in the northeast Ozone Transport Commission (OTC) submitted a petition to EPA pursuant to § 184 of the Act requesting that EPA require the northeast OTC states to adopt a low-emission vehicle (LEV) program, known as the OTC LEV program. EPA granted the petition in December 1994, and issued a finding of SIP inadequacy to each OTC state. Pursuant to this finding, each OTC state, including Pennsylvania, must submit a SIP revision to EPA by February 15, 1996. In the OTC LEV SIP call, EPA noted that a national LEV-equivalent program that is in effect, could be found to be an acceptable alternative for the OTC LEV program. See 60 FR 4712 (January 24, 1995).

Pennsylvania has indicated to EPA its intent to submit the OTC LEV program as a substitute for the CFFP. The OTC LEV program will achieve substantially greater emissions reductions than would the CFFP. EPA has determined that it is appropriate to withdraw the finding of failure to submit the CFFP (or an adequate substitute program), and to extend the deadline for such submission in response to the OTC LEV SIP call (Pennsylvania's intended substitute program). Under this interpretation, Pennsylvania is required to make a submission that satisfies the OTC LEV SIP call by February 15, 1996. Pennsylvania may identify such submission as its substitute for the CFFP, and EPA will process it as such.

If you have any questions, please feel free to contact me or Kelly Sheckler of my staff at (215) 597-6863.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Michael McCabe", written in a cursive style.

W. Michael McCabe
Regional Administrator

